

STATE OF GEORGIA
COUNTY OF PAULDING

Treva W. Shelton
Clerk Superior Court, Paulding County, Ga.
Bk 03755 Pg 0851-0854

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Cross Reference: Deed Book 1029, Page 541.

(Space Above Reserved for Recording Data)

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VILLAS AT EVANS MILL**

This Amendment to the Declaration of Covenants, Conditions, and Restrictions for Villas at Evans Mill (“*Amendment*”) is made on the date hereinafter set forth by Villas at Evans Mill HOA, Inc. (“*Association*”).

WITNESSETH

WHEREAS, The Villas at Evans Mill, LLC recorded that certain Declaration of Covenants, Conditions, and Restrictions for Villas at Evans Mill on August 31, 2001, in Deed Book 1029, Page 541, *et seq.*, in the public land records of Paulding County, Georgia, (“*Declaration*”); and as may have been amended (hereinafter collectively referred to as the “*Declaration*”); and

WHEREAS, Article IX, Section 2 provides for the amendment of the Declaration by written agreement signed by at least seventy-five (75%) percent of the Owners; and

WHEREAS, the Lot Owners wish to submit the Declaration to the provisions of the Georgia Property Owners Association Act, O.C.G.A. Sections 44-3-220, *et. seq.*; and

WHEREAS, Seventy-five (75%) percent or more of Owners consented in writing to the Amendment, as certified to by the attached signature of the Association’s representative(s); and

WHEREAS, the following amendments are not material with respect to first mortgagees in that the amendments do not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines the amendments or a portion of the amendments materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee’s consent to the amendments, then the amendments so determined by the court shall not be binding on the first mortgagee so involved, unless such first mortgagee consents to this amendment; and if such consent is not forthcoming, then for those amendments so determined by the court the corresponding provisions of the Declaration prior to this amendment shall control with respect to the affected first mortgagees.

NOW, THEREFORE, the Declaration is hereby amended as follows:

THIS AMENDMENT TO THE DECLARATION HEREBY SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS’ ASSOCIATION ACT, O.C.G.A. SECTIONS 44-3-220, ET. SEQ.

CLOSING ATTORNEYS AND TITLE EXAMINERS MUST CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING ASSESSMENTS/CHARGES DUE ON LOTS.

1.

The following sentence is added to Article I, Section 10 of the Declaration:

The Community constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as such act may be amended from time to time.

2.

To Article I, a new Section 13 "Act" is added as follows:

Section 13. "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as such Act may be amended from time to time.

3.

Article IV, Section 1, entitled "Creation of Lien and Personal Obligation of Assessments" is amended by adding the words "actually incurred" after the phrase "reasonable attorney fees" wherever said phrase occurs in Section 1.

4.

Article IV, Section 7, entitled "Date of Commencement of Monthly Assessments: Due Dates", is hereby deleted in its entirety and the following is substituted in its place:

Section 7. Exempt Lots

No Lot owner other than the Association shall be exempted from any liability or any assessments or under any instrument for any reason whatsoever, including, without limitation, abandonment, nonuse, or waiver of the use or enjoyment of his or her Lot or any part of the common area except to the extent that any Lot, upon request by the Owner of the Lot and upon written approval in the discretion of the Board, be made exempt from assessments and thus denied voting rights of the Lot under the instrument until a certificate of occupancy is issued by the governing authority for a dwelling on such Lot.

5.

Article IV, Section 8, entitled "Effect of Nonpayment of Assessments: Remedies of the Association" is deleted in its entirety and replaced by the following:

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments, installments or other charges, which are not paid when due shall be considered delinquent, and shall incur a late charge equal to the greater of ten dollars (\$10.00) or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act. The delinquent assessments, including late charges, shall incur simple interest at the rate of ten percent (10%) per annum, or such higher amounts as may be authorized by the Act. The Association shall also be entitled to costs of collection, including court costs, and reasonable attorney's fees actually incurred.

6.

Article IX, Section 1, entitled "Duration and Perpetuities" is hereby deleted in its entirety, and the following is substituted in its place:

Section 1. Amendment and Duration.

The covenants and restrictions of this Declaration shall run with and bind the Properties perpetually to the extent provided for in the Act. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3rds) of the Total Association Vote. "Total Association Vote" means all of the votes attributable to members of the Association, but does not include those Lot Owners who have had their right to vote suspended pursuant to the Declaration.

If legal action is not instituted to challenge the validity of any amendment to the Declaration within one (1) year of the recording thereof in the Paulding County, Georgia land records, then any such amendment shall be presumed to be validly approved and adopted. Every purchaser or grantee of any interest in any real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance, hereby agrees that the Declaration may be amended as provided for in this Section.

7.

A new Section 10 is added to Article XI as follows:

Section 10. Conflicts & Order of Law.

If there are conflicts or inconsistencies between the provisions of the Act, other Georgia law, the Articles of Incorporation, the Declaration and the Bylaws, the provisions of the Act, other Georgia law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

8.

Article III, Section 3 of the Bylaws for the Association entitled "Notice of Meetings" is hereby deleted in its entirety and replaced by the following in compliance with § 44-3-230 of the Act:

Section 3. Notice of Meetings.

Notice shall be given to each Owner at least twenty-one (21) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting and shall state the time, place, and, for any special meeting, purpose of such meeting. Such notice shall be delivered personally or sent by United States mail, postage prepaid, statutory overnight delivery, or issued electronically in accordance with Chapter 12 of Title 10, the "Uniform Electronic Transactions Act," to all Owners of record at such address or addresses as designated by such owners or, if no other address has been so designated, at the address of their respective Lot or Unit.

ALL OTHER PROVISIONS OF SAID DECLARATION FOR VILLAS AT EVANS MILL SHALL REMAIN UNCHANGED.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, this Amendment to the Declaration is executed by the undersigned Officers of the Association, and said Officers hereby attest under oath that after proper notice at least seventy-five percent of owners consented and agreed in writing to the Amendment, said written consents on record with the Association.

This 18th day of August, 2017.

VILLA AT EVANS MILL

BY: Jeffrey L. Balkus
TITLE: **President.**

ATTEST:
[Signature]
SECRETARY

Michael P. Gillespie
WITNESS

Sworn to, signed, sealed and
Delivered before me on the
18 day of August, 2017.

[Signature]
NOTARY PUBLIC
[SEAL]

